

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

Arthur Ginsberg

Plaintiff

v.

James L. DeHart,
John P. Griffith,
Landya B. McCafferty,
Margaret H. Nelson,
Diane M. Nicolosi,
Max and Maxine Does 1-12,
Ned and Nadine Zoes 1-12

Case No. 10-cv-452-JL

Defendants

MOTION TO DISMISS

Defendants James L. DeHart, Esq., Margaret Nelson, Esq., the Honorable Diane M. Nicolosi, and the Honorable Landya B. McCafferty (collectively “NHADO defendants”) submit this motion and concurrently filed memorandum of law requesting that the court dismiss this complaint for the failure to state a claim. In support thereof the NHADO defendants state as follows:

1. The complaint should be dismissed because the Federal Court lacks subject matter jurisdiction and there is no case or controversy.
2. The complaint should be dismissed because it is barred by the Eleventh Amendment to the Constitution of the United States.
3. The complaint should be dismissed because the NHADO defendants are entitled to absolute judicial or quasi-judicial immunity.

4. The complaint should be dismissed because the NHADO defendants are entitled to qualified immunity.

5. The complaint should be dismissed because there is no First Amendment free speech right of access to undocketed judicial or attorney grievances or to all “work product.”

6. The complaint should be dismissed because there is no First Amendment right to petition to undocketed judicial or attorney grievances.

7. The complaint should be dismissed because there is no First Amendment or Fourteenth Amendment due process right to undocketed judicial or attorney grievances.

8. The complaint should be dismissed because the Federal Court does not have subject matter jurisdiction over matters of state law or the state constitution.

9. A memorandum of law is filed concurrently herewith. No assent has been sought as this is a dispositive motion.

WHEREFORE, for the reasons stated previously herein, the NHADO defendants respectfully submit that this Motion to Dismiss should be granted and for such other relief as may be just and reasonable.

Respectfully submitted,

JAMES L. DeHART,
MARGARET H. NELSON
DIANE M. NICOLSI
LANDYA B. MCAFFERTY

By their attorneys,

MICHAEL A DELANEY
ATTORNEY GENERAL

/s/ Mary E. Maloney

Mary Maloney, Bar No. 1603
Assistant Attorney General

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Concord, N.H. 03301
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Certificate of Service

Dated: November 3, 2010

I hereby certify that a copy of the foregoing was served via first class mail to: Arthur Ginsberg and co-defendant John Griffith, Esq.

/s/ Mary E. Maloney

Mary Maloney, Bar No. 1603